

**IN THE UNITED STATE DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

(1) NEWMAN'S TRANSPORTATION,
LLC, A Texas Limited Liability Company
Domesticated in Oklahoma,
Plaintiff,

v.

(1) SOUTHERN TIRE MART, LLC a
Mississippi Limited Liability Company,
Defendant.

Case No.:
(State Court Case No.: CJ-2021-1468)

DEFENDANT SOUTHERN TIRE MART, LLC'S NOTICE OF REMOVAL

PLEASE TAKE NOTICE THAT Defendant SOUTHERN TIRE MART, LLC by and through its counsel of record, John David Lackey and Amy N. Bennett, hereby files this *Notice of Removal* pursuant to 28 U.S.C. §§ 1441 and 1446, asserting diversity jurisdiction as codified in 28 U.S.C. § 1332 to effect the removal of the above captioned matter, originally commenced in Tulsa County District Court for the State of Oklahoma. For the reasons more fully set forth below, removal of this action is proper.

Background

1. On June 8, 2020, Plaintiff served Defendant Southern Tire Mart, LLC with a *Summons* and *Petition*. A true and correct copy of the *Summons* and *Petition* as served upon Defendant Southern Tire Mart, LLC is attached hereto as Exhibit A.
2. Plaintiff's *Petition* alleges property damage based upon the alleged negligent service provided by the Defendant to the Plaintiff on or about March 25, 2021, that took place in Tulsa County, Oklahoma.

3. The only additional documents filed in the underlying state court case includes a *Special Entry of Appearance* by the Defendants attached hereto as Exhibit B. A copy of the state court docket is attached hereto as Exhibit C.

Timeliness of Removal

4. This *Notice of Removal* is filed within one (1) year of commencement of the action pursuant to 28 U.S.C. § 1446(c)(1). *See*, Exhibit A.
5. This *Notice of Removal* is timely as it is filed within thirty (30) days of service on the Defendant a copy of the *Summons* and *Petition* pursuant to 28 U.S.C. § 1446(b). *See*, *Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344 (1999).

Diversity Jurisdiction

6. The Court is vested with diversity jurisdiction of this matter pursuant to 28 U.S.C. § 1332, as the amount in controversy exceeds \$75,000.00 and is between citizens of different states.
7. Plaintiff's *Petition* alleges the damages suffered by Plaintiff exceed \$75,000.00. *See*, Exhibit A.
8. Plaintiff's *Petition* alleges that Plaintiff is a Texas Limited Liability Company, domesticated in the State of Oklahoma. *See*, Exhibit A.
9. Plaintiff's *Petition* alleges that Defendant Southern Tire Mart, LLC is a Mississippi Limited Liability Company. *See*, Exhibit A.

Venue

10. Venue is appropriate in the Northern District of Oklahoma as the underlying state court lawsuit, filed by Plaintiff in Tulsa County, Oklahoma, is within the district boundaries for this federal district.
11. Plaintiff's *Petition* alleges damages occurring in Tulsa County, Oklahoma, is within the boundaries of this federal district. *See*, Exhibit A.

Notice to Plaintiff

12. Pursuant to 28 U.S.C. § 1446(d), this *Notice of Removal* will be promptly served upon Plaintiff following filing of the *Notice of Removal* in this Court.
13. Pursuant to 28 U.S.C. § 1446(d), a copy of this *Notice of Removal* will be promptly filed with the Tulsa County Court Clerk in the underlying state court case.

WHEREFORE, premises considered, Defendant Southern Tire Mart, LLC, a Mississippi Limited Liability Company, prays this civil action be removed from the Tulsa County District Court and to the United States District Court for the Northern District of Oklahoma, and for such other relief as is just and equitable.

Dated this 6th day of July, 2021.

Respectfully submitted,

/s/ Amy N. Bennett

John David Lackey, OBA #20516

Amy N. Bennett, OBA #21889

PAUL & LACKEY, P.C.

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ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 6th day of July, 2021, a true and correct copy of the above and foregoing document was transmitted *via electronic mail, U.S. mail and/or facsimile* to the following attorney(s) of record:

Sam P. Daniel, III OBA #2151
1756 S. Utica Ave.
Tulsa, OK 74101-5336
Sam.daniel@samdaniellaw.com

/s/ Amy N. Bennett

Amy N. Bennett

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